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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/522,575   | 01/28/2005  | Tomoyuki Tanaka      | 50070-098           | 8794             |
| 20277  | 7590        | 09/15/2008           | EXAMINER            |                  |
| MCDERMOTT WILL & EMERY LLP<br>600 13TH STREET, N.W.<br>WASHINGTON, DC 20005-3096 |             |                      |                     | CYGAN, MICHAEL T |
| ART UNIT   |             | PAPER NUMBER         |                     |                  |
| 2855   |             |                      |                     |                  |
|  |             | MAIL DATE            |                     | DELIVERY MODE    |
|  |             | 09/15/2008           |                     | PAPER            |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/522,575             | TANAKA ET AL.       |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Michael Cygan          | 2855                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 January 2005 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____ .                                     |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/28/05</u> .   | 6) <input type="checkbox"/> Other: ____ .                         |

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 31. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term “tubular” in claim 4 is used by the claim to mean “hollow”, while the accepted meaning is “cylindrically shaped passage.” The term is indefinite because the specification does not clearly redefine the term.

Even if some definitions of “tubular” would be shape independent, the phrasing of a rectangular shaped tubular member invites confusion that can and should be eliminated.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohtani (US 4,825,695). Ohtani discloses the claimed invention, a fuel tank cover body comprising a cover [1m], liquid level detection unit [2,3], fixing portion [1b,1c,1d,1e], such that cover and fixing portion are formed integrally as a resin (column 3 lines 55-63). The fixing portion includes two plate portions [1c,1d] connected by a connecting

portion [1f]. The cover body has guide portions connected by protruding walls (Figure 2a) for contacting the liquid level detection unit [2,3].

Claims 1-3, 5, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson (US 4,574,631). Johnson discloses the claimed invention, a fuel tank cover body comprising a cover [7], liquid level detection unit [1,2], fixing portion [6], such that cover and fixing portion are formed integrally as a resin (column 2 lines 28-32). The fixing portion includes two plate portions [6] connected by a connecting portion formed of the material inside the tubular part of [7]. The cover body has guide portions mating with connecting protruding walls [5] of the liquid level detection unit for contacting the liquid level detection unit [1,2]. A portion (top of [7]) protrudes from the middle of the cover.

Claims 1-4, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsuda (US 6,138,524). Tsuda discloses the claimed invention, a fuel tank cover body comprising a cover [3b], liquid level detection unit [11a], fixing portion [3a,3c], such that cover and fixing portion are formed integrally as a resin (column 4 lines 55-57 and column 5 lines 48-50). The fixing portion includes two plate portions (at Figure 1, supporting parts 10b) connected by a connecting portion formed of the material inside the tubular part of [3c], which has a rectangular sectional shape (Figure 1). The cover body has guide portions having protruding portions [10b] mating with connecting

protruding walls [10a] of the liquid level detection unit for contacting the liquid level detection unit [11a].

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cygan whose telephone number is (571) 272-2175. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on 571-272-2180. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Cygan, Ph.D., J.D./  
Primary Examiner, Art Unit 2855